



Ethics News

Official Newsletter of the Indiana State Ethics Commission

Issue No. 34

January 2004



In this issue

- Enforcement Proceedings
- Staff Advice
- Ethics Training
- What's New Online?

Próspero Año Nuevo! Bonne Année! Gutes Neues Jahr!

A Letter from the Director of the State Ethics Commission

There has been a considerable amount of media coverage in the past few months of alleged wrongdoing on the part of Indiana state employees. Some of the stories have appeared on the front page of the state's largest newspaper. It's unfortunate, but it appears that a small number of state employees have engaged in conduct that makes the rest of us look bad.

Because we tend to learn from others' mistakes and experiences, I keep abreast of ethics happenings around the country. I thought I would share a few ethics lapses that have occurred elsewhere.

- Legislative leaders in Connecticut are examining whether to appoint a committee to investigate the actions of their governor, which could be a prelude to impeachment. The Connecticut governor has admitted to making false statements regarding work that was paid for by persons that have contracts with the state. His former deputy chief of staff has pleaded guilty to criminal charges relating to the acceptance of money and gold for steering contracts toward certain business entities.
- In Kentucky, a former nursing home operator, who had an adulterous relationship with former Governor Paul Patton, pleaded guilty to mail fraud stemming from an effort to get government construction contracts for which she was not qualified. She has claimed that Patton aided her in that effort. Patton has admitted to other charges by the Executive Branch Ethics Commission, and agreed to a \$5,000 fine and a public reprimand.
- According to the *New York Post*, the New York Yankees have agreed to pay a \$75,000 fine to settle a complaint from the state lobbying commission. The complaint alleges the team failed to disclose dozens of tickets given to public officials as a lobbying expense, thereby violating state lobby laws. A Yankee spokesperson said the organization disputed the allegations, but settled the matter to end an embarrassing situation.

— Tim McClure, Director

Recent Enforcement Proceedings

The State Ethics Commission approved the following report regarding a former state employee who had waived his right to a public hearing, and entered into an agreed settlement.

Case #03-C-3

A former state employee with the Department of Environmental Management (IDEM) waived his right to a public hearing by an Agreed Settlement signed on October 7, 2003, in which he agreed to pay a \$100 fine for violating the Post-Employment Restriction statute. The former employee violated [IC 4-2-6-11](#) when he assisted the Town of New Harmony in complying with state wastewater regulations and made recommendations to the Town – well within the 12 month restriction imposed by IC 4-2-6-11.

Prior to leaving state government in April 2002, the former employee worked with various wastewater treatment facilities to provide training and on-site evaluation and assistance to help restore compliance with state and federal environmental laws and regulations. The former employee further monitored the situation at the New Harmony treatment facility until his departure from IDEM in April 2002. Shortly thereafter, as an engineering consultant with a private firm, the former employee assisted the Town of New Harmony with the same particular matter (wastewater treatment plant compliance issues) by rendering advice to the Town.

The State Ethics Commission found that the former employee was personally and substantially involved in the particular matter through his on-site training assistance and coordination of information and recommendations to bring the Town of New Harmony's wastewater treatment facility into compliance with state and federal environmental laws and regulations.

Staff Advice

This article briefly reviews questions recently addressed by the Ethics Commission staff. The advice is not intended as a comprehensive analysis of the issue raised. For more information on whether and how this information may apply in another situation, contact your [agency Ethics Officer](#) or the State Ethics Commission.

NOTE: *Please be advised that the opinions in these answers merely interpret and apply the State Ethics Commission's laws, regulations, and policies. The fact scenarios presented in these questions could possibly violate other agency laws, regulations, rules, or policies.*

Q. Several employees are on site receiving training at a company providing technical equipment to their agency. The company wants to provide lunch for the employees/trainees. Can they accept?

A. The gift rule precludes the free lunch if it can reasonably be inferred that the lunch would influence the employees to give special consideration to the contractor. However, the gift rule allows the commission to waive the rule for a legitimate public purpose. If a state officer or an appointing authority approves in writing the receipt of a gift subject to this rule (as the lunch above), the written approval shall be filed with the commission within thirty (30) days of receipt of the gift, and shall identify the employee, the nature and value of the gift, and the donor of the gift. The commission may review such written approvals and require of the state officer or appointing authority an explanation of the reason for the approval.

Q. Does the Ethics Commission have jurisdiction over special state appointees?

A. The State Ethics Commission has very limited jurisdiction over special state appointees. The law regarding confidential information is one of the only ethics law or rule that applies to special state appointees. This law prohibits special state appointees from benefitting financially from confidential information gained as a result of being a special state appointee. The other laws that mention special state appointees are summarized below:

1. The Ethics Commission can recommend legislation to the General Assembly relating to the conduct and ethics of special state appointees, see IC 4-2-6-4(a)(4).
2. The Ethics Commission can issue advisory opinions requested by special state appointees to interpret the Ethics Commission's laws and rules, see IC 4-2-6-4(b)(1)(A)(iv).

Q. Two state employees are involved in charitable fund-raisers. One is doing a walk to raise money for a charity, and the other has a brother biking across the country for another charity. Both of these employees want to solicit contributions from their fellow employees. Are they able to do this?

A. State employees should not use state time or state resources to solicit contributions. However, it is OK to post information in common areas (e.g., bulletin board, break room, or agency refrigerator). However, it is not permissible to send out agency-wide e-mails to solicit contributions. This is not a proper limited use of state equipment.

Q. Our state hospital is having its annual training fair and would like to invite some college representatives to attend. The purpose is to explain degree programs that are relevant to the work performed by hospital employees. These college representatives will not receive any money from our state hospital for attending the fair. Are we allowed to invite them?

A. Inviting the colleges to attend the training fair in no way violates any of the state's ethics statutes or regulations. In addition, it does not violate any of the Department of Administration's (DOA's) procurement guidelines. As long as you are not paying the colleges, you are not violating any of DOA's guidelines.

Q. A company is using a state hospital as a pilot test site to install, free of charge, one of its hot water monitoring systems. The system has been in place for about 3 weeks, and the hospital is very satisfied. The company that installed the system would like to interview a maintenance worker and the physical plant director on videotape. The company would use the tape at trade shows. Does this present any ethics concerns?

A. First of all, the piloted hot water monitoring system is not a gift to an individual. If it is a gift to anyone, it is a gift to an FSSA state hospital. The Ethics Commission's rule regarding gifts prohibits or limits gifts from contractors or potential contractors to state employees. This rule does not come into play in this situation, because nothing of value was given to a state employee. Furthermore, there is no problem with the two state hospital employees appearing in the video.

If the hospital decides in the future to procure additional hot water monitoring systems, it should make sure to closely follow DOA's procurement manual. This will avoid any appearance of favoritism to the company who test-piloted the system.

Don't Wait!

Take your online ethics training now!

New Employees

Click here for orientation.
Designed for new employees and those who have never had ethics training and as a refresher for those who have.

Managers/Supervisors

Click here to learn how to handle ethics situations on the job and to review the ethics rules.

Executives

Click here to learn why top down concern about ethics is important. Responsibilities of agency heads and ethics officers are also discussed.

Note

All training modules come with a certificate of completion that is to be placed in your personnel file. This is your record of having taken the online training.



2004 Ethics Classes

Ethics Orientation

February 17, April 13, June 15,
August 24, October 19, December 7
(10:00 - 11:00 a.m.)

Supervisors & Managers

February 25, March 14, June 16,
August 25, October 20, December 8
10:00-12:00 p.m.



Classes are in the State Conference or Training Center, Indiana Government Center South, 402 W. Washington St., Indianapolis, IN.
Please check directory on day of class for room number.

To register, call (317) 232-3850 or visit our
Web site at www.ethics.IN.gov

Commission meetings are open to the public and held the second Thursday of the month. Normal starting time is 10:00 a.m.